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ADMINISTRATIVE LAW-JUDICIAL REVIEW-FEDERAL EQUITY "POWERS

RECENT DECISIONS

ADMINISTRATIVE LAW — JUDICIAL REVIEW — FEDERAL EQUITY POWERS — Plaintiff's testator, a resident of New York, died there and at the time of his death owned certain oil paintings on temporary loan to an Art Museum in Pennsylvania, on which the State of Pennsylvania levied an inheritance tax.[1] Plaintiff, executor under a will disposing of the pictures, filed a bill in the Federal District Court for Eastern Pennsylvania to enjoin the defendants, tax officials of Pennsylvania, from attempting to impose or collect the inheritance tax. The bill alleged diversity of citizenship and the requisite jurisdictional amount, and further that the imposition of the tax violated the Fourteenth Amendment, depriving plaintiff of his property without due process of law and denying him equal protection. It appeared that under state law plaintiff had an alternative method of reviewing the action of tax officials. He was permitted either to petition a designated administrative body for a refund [2] or to appeal from the decision of the tax officials to a specified county court which was given power on appeal to determine all questions of valuation and liability of the appraised estate for the inheritance tax.[3] *Held*, plaintiff having no adequate remedy at law, a resort to federal equity was proper. *City Bank Farmers' Trust Co. v. Schnader*, (U. S. 1934) 54 Sup. Ct. 259.

The instant case raises the major procedural problems confronting a taxpayer seeking equitable relief in the federal courts against the imposition of state taxes alleged for some reason to be void. Traditional principles of equity prevail and the plaintiff must show that he has no adequate remedy at law.[4] In granting equitable relief in the instant case the Court enunciated the well-established corollary of this rule, viz. that the plain and adequate remedy must be one on the law side of the federal courts. An adequate legal remedy available in the state courts is insufficient to deprive federal equity of jurisdiction.[5] The Court conceded that if the taxpayer under Pennsylvania law had been allowed to pay the alleged illegal exaction under protest and sue for its return, an adequate legal remedy would have been accorded him sufficient to prevent the interposition of federal equity, since such a suit might be maintained in the federal courts,[6] provided, of course, that a ground of federal jurisdiction appeared,[7] and notwithstanding a provision restricting the suit to state courts.[8]

[1] Pa. Stat. (Purdon 1931), tit. 72, sec. 2301.

[2] Pa. Stat. (Purdon 1931), tit. 72, sec. 503.

[3] Pa. Stat. (Purdon 1931), tit. 72, sec. 1202.

[4] 36 Stat. 1163 (1911), U. S. C. tit. 28, sec. 384 (1926).

[5] Smyth v. Ames, 169 U. S. 466, 18 Sup. Ct. 418, 42 L. ed. 819 (1898); Risty v. Chicago, R. I. & P. Ry., 270 U. S. 378, 46 Sup. Ct. 236, 70 L. ed. 641 (1926); Henrietta Mills v. Rutherford County, 281 U. S. 121, 50 Sup. Ct. 270, 74 L. ed. 737 (1930).

[6] Singer Sewing Machine Co. v. Benedict, 229 U. S. 481, 33 Sup. Ct. 942, 57 L. ed. 1288 (1913); Matthews v. Rodgers, 284 U. S. 521, 52 Sup. Ct. 217, 76 L. ed. 447 (1932).

[7] If such a suit is brought against the State there is no diversity of citizenship and a federal question must be presented to allow the assumption of jurisdiction by the federal courts. Stone v. South Carolina, 117 U. S. 430, 6 Sup. Ct. 799, 29 L. ed. 962 (1886).

[8] Spencer v. Watkins, (C. C. A. 8th, 1909) 169 Fed. 379, certiorari denied,

Though such a remedy is ordinarily considered adequate, there are cases in which it may furnish incomplete relief.[9] The Court further assumed that if plaintiff had had a remedy by way of removal from the state court under federal statutes allowing removal[10] in cases where the federal court would have had jurisdiction to maintain the action as an original suit, this would bar equity jurisdiction. There seems little doubt that proceedings in the county court would be held sufficiently judicial to justify removal,[11] and the taxpayer apparently would become party defendant and hence the proper party to ask removal. The Court held, however, that since the State would be a party to the cause this would be fatal to the taxpayer's right to remove on the ground of diversity of citizenship, the State not being a citizen within the meaning of the removal statutes.[12] Nor would the proceedings be removable on the ground that a federal question was involved, since the taxpayer, being a defendant on appeal, could only assert his constitutional rights by way of defense, and it is settled that to be removable it must appear from the plaintiff's statement of the case that a federal question is involved. It is not sufficient if this appear by way of defense.[13] Defendant's further argument that federal relief by way of injunction should be denied, resting on the proposition that plaintiff had not taken his administrative appeals authorized by state law, was rejected on the ground that the judicial stage had been reached,[14] the function of the county court on appeal being judicial.[15] The case is particularly interesting in that it shows a tendency on the part of the Supreme Court to stand by the principle that a legal remedy which will defeat equitable relief in the federal court must be one in that court notwithstanding the qualification denying equitable relief because the state administrative remedy is as yet incomplete[16] or because

215 U. S. 605, 30 Sup. Ct. 406, 54 L. ed. 346 (1909); Madisonville Traction Co. v. St. Bernard Mining Co., 196 U. S. 239, 25 Sup. Ct. 251, 49 L. ed. 462 (1905).

[9] Nevada-California Power Co. v. Hamilton, (D. C. Nev. 1916) 235 Fed. 317, where it was doubtful if the entire amount of taxes illegally imposed could be recovered under the statute; Western Union Tel. Co. v. Tax Commission of Ohio, (D. C. S. D. Ohio 1927) 21 F. (2d) 355, where the defendant might be compelled to bring several suits to secure complete recovery; Gramling v. Maxwell, (D. C. W. D. N. C.) 52 F. (2d) 256, where plaintiff brought a suit in behalf of himself and four hundred others.

[10] 38 Stat. 278 (1914), U. S. C. tit. 28, sec. 71 (1926).

[11] Smith v. Douglas County, (C. C. A. 8th, 1918) 254 Fed. 244.

[12] Stone v. South Carolina, 117 U. S. 430, 6 Sup. Ct. 799, 29 L. ed. 962 (1886); Postal Tel. Cable Co. v. Alabama, 155 U. S. 482, 15 Sup. Ct. 192, 39 L. ed. 231 (1894).

[13] Tennessee v. Union & Planters' Bank, 152 U. S. 454, 14 Sup. Ct. 654, 38 L. ed. 511 (1894); Nevada-California Power Co. v. Hamilton, (D. C. Nev. 1916) 235 Fed. 317.

[14] Bacon v. Rutland Ry., 232 U. S. 134, 34 Sup. Ct. 283, 58 L. ed. 538 (1914).

[15] Smith v. Douglas County, (C. C. A. 8th, 1918) 254 Fed. 244.

[16] Prentis v. Atlantic Coast Line Co., 211 U. S. 210, 29 Sup. Ct. 67, 53 L. ed. 150 (1908); Porter v. Investors Syndicate, 286 U. S. 461, 52 Sup. Ct. 617, 76 L. ed. 1226 (1932).

plaintiff has failed first to resort to the administrative remedies provided by state law,[17] made in that doctrine by the more recent cases.

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[17] First Nat. Bank of Greeley v. Weld County, 264 U. S. 450, 44 Sup. Ct. 385, 68 L. ed. 784 (1924); Gorham Mfg. Co. v. State Tax Commission, 266 U. S. 265, 45 Sup. Ct. 80, 69 L. ed. 279 (1924); De Pauw University v. Brunk, (D. C. W. D. Mo. 1931) 53 F. (2d) 647, for an interesting commentary on the requirement that the legal remedy must be one in the federal courts; Central Railroad Co. of New Jersey v. Martin, (D. C. N. J. 1933) 3 F. Supp. 477.